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**INTERGOVERNMENTAL RESPONSE AGREEMENT  
BETWEEN THE  
KENTUCKY NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
AND THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION IV  
FOR OPERATION AND MAINTENANCE ACTIVITIES  
AT THE  
LEES LANE LANDFILL SITE**

**A. AUTHORITY**

This Agreement is entered into pursuant to Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, (CERCLA), 42 U. S. C. 9601 et. seq. and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) found at 40 CFR Part 300.

**B. PURPOSE**

Under this Agreement between the U.S. Environmental Protection Agency (EPA) and the Kentucky Natural Resources and Environmental Protection Cabinet (KNREPC), KNREPC agrees to assume the responsibility for the oversight of Operation and Maintenance (O&M) activities which will be conducted by the Louisville and Jefferson County Metropolitan Sewer District (MSD) at the Lees Lane Landfill Superfund Site (Site). MSD is obligated to perform certain O&M activities pursuant to a separate Administrative Consent Order with EPA (copy attached hereto as Attachment 1). The O&M activities which will be conducted by MSD consist of regularly scheduled site inspections, air quality monitoring, gas collection system balancing and maintenance, ground-water quality monitoring, river bank protection controls, and landfill surface and cap monitoring and maintenance. The Operation and Maintenance Plan, incorporated herein as Attachment 2, explains the technical procedures which will be used to complete these tasks and provides a detailed schedule for conducting O&M at the Site.

**C. PARTIES**

1. This Agreement is between EPA and the KNREPC.
2. The designated EPA and State Project Managers for this Agreement are:

EPA Designee:

Liza I. Montalvo  
North Superfund Remedial Branch  
Waste Management Division  
U. S. Environmental Protection Agency  
345 Courtland Street  
Atlanta, Georgia 30365  
(404)347-7791

State Designee:

Jeff Pratt, Manager  
Uncontrolled Sites Branch  
Division of Waste Management  
Department for Environmental Protection  
14 Reilly Road  
Frankfort, Kentucky 40601  
(502)564-6716

MSD Designee:

Carl Neumayer, Director  
Operations and Maintenance  
Louisville and Jefferson County Metropolitan Sewer  
District  
400 South Sixth Street  
Louisville, Kentucky 40202  
(502)540-6348

D. EPA/STATE ROLES AND RESPONSIBILITIES

1. EPA shall conduct the first five-year review of the Site to determine whether the response actions undertaken by EPA remain protective of human health and the environment. EPA may authorize KNREPC to conduct portions of subsequent reviews.
2. The KNREPC shall, within its lawful authority, conduct all appropriate oversight activities, as determined jointly by EPA and KNREPC, to ensure that MSD is properly carrying out O&M activities in accordance with the requirements of the O&M Plan.
3. By December 31 of each year during which MSD has performed O&M activities at the Site, KNREPC shall submit to EPA O&M Oversight Reports for the preceding 12 months. Said reports will include, but will not be limited to narrative summaries and copies of KNREPC field reports documenting

observations during KNREPC's oversight of O&M activities at the Site. EPA herein reserves the right to require KNREPC to submit additional reports and other documents, should EPA determine that such reports are necessary for the effective and expeditious implementation of this Agreement.

4. KNREPC agrees to fund and perform any and all O&M activities required at the Site which MSD is not obligated to fund and/or perform under the Administrative Consent Order with EPA.
5. KNREPC agrees that if for any reason MSD fails to perform the O&M activities required by the Administrative Consent Order with EPA, KNREPC will perform such O&M activities. In addition, KNREPC agrees to assure that institutional controls required under EPA's Enforcement Decision Document and the O&M Plan will be implemented, monitored, and retained, as part of O&M.

Pursuant to Section V, paragraphs 24-29, of the Administrative Order on Consent between EPA and MSD and Jefferson County, Kentucky, Docket No. 91-32-C, EPA may assess and MSD and Jefferson County are obligated to pay stipulated penalties for their failure to comply with the terms of the Order or to perform any of the O&M work in a timely and appropriate manner. Additionally, pursuant to paragraph 27, if EPA determines that MSD and Jefferson County have failed to implement any portion of the O&M work in a timely manner, EPA or its designate may perform the work. In the event EPA or its designate perform the work, MSD and Jefferson County shall be liable for stipulated penalties and shall be required to reimburse EPA for the costs incurred in performing the work.

KNREPC agrees that if EPA determines that MSD and Jefferson County have failed to perform any portion of the O&M work as required under the Order, and EPA designates KNREPC to perform such work, KNREPC shall perform this work provided funding is available from state budget.

6. In the event modifications to the O&M Plan are proposed by EPA or MSD, EPA will notify KNREPC of any such changes and provide KNREPC an opportunity to review and comment on the proposal. If EPA agrees to modify the O&M Plan, the modified Plan will be attached to this Agreement as Attachment 2.
7. EPA agrees to provide pertinent information and guidance to KNREPC on specific components of the O&M Plan and shall be available to consult with KNREPC in the implementation of its O&M oversight activities.

8. EPA and KNREPC agree to employ and encourage cooperation and communication concerning all activities related to this Agreement.

E. Amendments

The parties agree that the provisions contained herein represent the entirety of their Agreement and that any amendments, modifications or additions hereto must be agreed to, in writing, and signed by both parties.

F. Effective Date of the Agreement

This Agreement becomes effective upon signature by the KNREPC Secretary and the EPA Region IV Regional Administrator.

G. General Conditions

1. This Agreement confers no rights or benefits on third parties not signatories hereto.
2. Nothing in this Agreement shall preclude EPA or KNREPC from actions to recover their respective costs from MSD, as a result of MSD's failure to perform the work required pursuant to the Administrative Order on Consent.

**INTERGOVERNMENTAL RESPONSE AGREEMENT  
FOR  
O&M ACTIVITIES AT THE LEES LANE SITE**

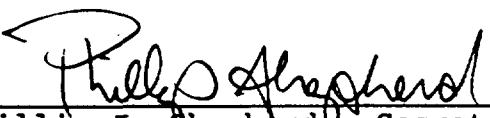
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IV**

As of the date of EPA's signature, John H. Hankinson, Jr.  
is the Regional Administrator, therefore, Mr. Hankinson is  
the proper signatory to this Agreement. Mr. Hankinson's  
signature appears on the following page.

Patrick M. Tobin  
Acting Regional Administrator

\_\_\_\_\_  
Date

**COMMONWEALTH OF KENTUCKY, NATURAL RESOURCES AND ENVIRONMENTAL  
PROTECTION CABINET**

  
Phillip J. Shepherd, Secretary  
Kentucky Natural Resources and  
Environmental Protection Cabinet

1-18-94  
Date

**INTERGOVERNMENTAL RESPONSE AGREEMENT  
FOR  
O&M ACTIVITIES AT THE LEES LANE SITE**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IV**

*John H. Hankinson, Jr.*  
John H. Hankinson, Jr.  
Regional Administrator

*4-7-84*  
Date

**ATTACHMENT 1**

**ADMINISTRATIVE ORDER ON CONSENT TO CONDUCT O&M ACTIVITIES  
AT THE LEES LANE SUPERFUND SITE**